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6 The Honorable Marsha J. Pechman
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DIANNE L. KELLEY and KENNETH)
HANSEN,)
) No. C07-0475 MJP
 Plaintiffs,)
) DECLARATION OF WILLIAM C.
v.) SMART
)
MICROSOFT CORPORATION, a Washington)
Corporation ,) CLASS ACTION
)
 Defendant.)

I, William C. Smart, declare as follows:

1. Identity and Competency. I am an attorney with the law firm of Keller Rohrback
L.L.P. Together with Gordon Tilden Thomas & Cordell, L.L.P., we represent the plaintiffs.

2. Adequacy of Counsel. My practice has focused exclusively on civil litigation
since I became a lawyer 29 years ago. I have tried roughly 60 cases, between 12 and 20 to a
jury. I have litigated matters in the courts of Washington, Alaska, Oregon, Montana, Ohio, and
various administrative tribunals. I am a past Trustee of the Washington Defense Trial Lawyers.

I, along with the other attorneys at my firm working this case, have had substantial experience
representing defendants and plaintiffs in class actions in state and federal court. This court has
found Keller Rohrback L.L.P. to be adequate class counsel on past occasions. It is my
understanding that none of the attorneys representing plaintiffs, whether at my firm or at Gordon

DECLARATION OF WILLIAM C. SMART
(C07-0475 MJP) Page - 1

LAW OFFICES OF
KELLER ROHRBACK L.L.P.
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1 Tilden Thomas & Cordell, L.L.P., has any personal or professional interest that would prevent us
 2 from vigorously representing the interests of the proposed class. We are committed to this
 3 lawsuit and will devote all necessary resources to it.

4 3. No Knowledge of Similar Lawsuits Against Microsoft. I am not aware of any
 5 lawsuit similar to this one being brought against Microsoft. I understand that my co-counsel are
 6 unaware of any such lawsuits as well.

7 4. Authentication of Documents. Attached as exhibits are true and correct copies of
 8 the following documents:

<u>Exhibit Name</u>	<u>Tab</u>
Confidential Memo, from Microsoft to OEMs [MS-KELL 13027-13030]	A
List of Fortune 100 Companies in 2007 printed from http://money.cnn.com/magazines/fortune/fortune500/2007/full_list/ (last accessed September 25, 2007)	B
Designed for Microsoft Windows and Windows Vista Logo License Agreement [MS-KELL 5000044-59; Microsoft Designated "CONFIDENTIAL"]	C
Microsoft Business Terms Document for OEM Customers [MS-KELL 207-19; Microsoft Designated "CONFIDENTIAL"]	D
Microsoft Windows XP Home Edition – End User License Agreement for Microsoft Software [MS-KELL 11631 – 11641]	E
OEM Marketing Bulletin: Windows Vista Capable Program [MS-KELL 39-58; Microsoft Designated "CONFIDENTIAL"]	F
Pages 1, 7-8, and the reporter's certificate from the Transcript of the 30(b)(6) Deposition of Microsoft (Mark Tindall)	G
Pages 1, 6-7, 9, 29, 39, and the reporter's certificate from the Transcript of the 30(b)(6) Deposition of Microsoft (Mark Croft)	H
Pages 1, 6-7, 11, 20-21, and the reporter's certificate from the Transcript of the 30(b)(6) Deposition of Microsoft (Christine Mullaney Sundlie)	I

	<u>Exhibit Name</u>	<u>Tab</u>
2	News.Com Article dated July 20, 2007 entitled <u>Next Version of Windows: Call It 7</u>	J
3	Microsoft's Initial Disclosures	K
5	Letter from Stephen M. Rummage to Jeffrey M. Thomas and Ian S. Birk dated August 29, 2007	L
7	Microsoft Press Release dated May 18, 2006 [MS-KELL 13525-13529]	M
8	Defendants' Revised Form of Order Granting Plaintiffs' Motion for Class Certification filed on April 12, 2006, in <u>Odom v. Microsoft, et al.</u> , King Cty. Super. Ct., No. 04-2-10618-4 SEA	N

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of October, 2007, at Seattle, Washington.



William C. Smart

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2 **CERTIFICATE OF SERVICE**
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4 I hereby certify that on October 5, 2007, I electronically filed the foregoing with the
5 Clerk of the Court using the CM/ECF system, which will send notification of such filing to the
6 following.
7

8 Counsel for Defendant Microsoft Corporation

9 Counsel for Defendant Microsoft Corporation
10 - Admitted Pro Hac Vice

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